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2010-097 vgom  
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

JIA YONGMING  
YAZHOU WU  
RICKY LE

Defendants

CRIMINAL NO. 1:13-cr-00238-NLH

18 U.S.C. § 371  
18 U.S.C. § 2320 (a)(1)  
18 U.S.C. § 2

**INDICTMENT**

The Grand Jury in and for the District of New Jersey, sitting in Newark, charges:

1. At all relevant times, a "Trademark," as defined in Title 15, United States Code, Section 1127 is registered in the United States Patent and Trademark Office according to law; and is any word, name, symbol or device or any combination thereof, used by a person to distinguish his or her goods, including a unique product, from that manufactured or sold by others and to indicate the source of the goods.

2. At all relevant times, and for purposes of this indictment, a "Counterfeit Mark," as defined in Title 18, United States Code, Section 2320 (e)(1)(A), is a spurious mark that is used in connection with trafficking in goods and services which is identical to, or substantially indistinguishable from, a mark registered for those goods on the principal register for the United States Patent and Trademark Office and in use, and the use of which is likely to cause confusion, to cause mistake, or to deceive the potential purchasers of the counterfeit goods.

3. At all relevant times, and for purposes of this indictment, the term "Counterfeit Cigarettes" refers to cigarettes bearing counterfeit marks and trademarks.

4. The term "Contraband Cigarettes" is a statutorily defined term which means a quantity in excess of 10,000 cigarettes which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression or other indication to be placed on packs or other containers of cigarettes to evidence payment of cigarette taxes. 18 U.S.C. § 2341(2).

5. States have the concurrent authority and jurisdiction to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violations of such laws, and for the administration of such laws, including the imposition of cigarette tax rates.

6. New Jersey and California, in order to evidence the payment of applicable State cigarette taxes, required a stamp, impression, or other indication to be placed on packs or other containers of cigarettes.

7. At all relevant times, the tax on cigarettes sold in California was \$0.87 per pack or \$8.70 per carton; and, the total number of contraband cigarette packs transported was 2.3 million. Accordingly, the applicable tax on 2.3 million packs of cigarettes is approximately \$2,001,000.

8. The brand name cigarettes "Marlboro" and "Marlboro Lights" are cigarettes manufactured in the United States and elsewhere by Phillip Morris USA and other Phillip Morris companies. At all relevant times, the brand names "Marlboro" and "Marlboro Lights" were Registered Trademarks of Phillip Morris USA.

9. "Bill of Lading" refers to a document that a transportation company possesses, acknowledging that it has received goods, which temporarily serves as the title to the goods during the transport of the merchandise.

10. "Customs Broker" refers to the importer's agent, licensed by the Bureau of Customs and Border Protection ("Customs")(Homeland Security) , to enter and clear goods through the United States border.

11. As used in this Indictment, the term "Container" is a reference to large metal boxes, which can be either 20 feet in length or 40 feet in length, used to transport bulk cargo on board ships, as well as on tractor-trailer trucks. A 40 foot container is capable of transporting a maximum of approximately 1,100 cases of cigarettes.

12. As used in this Indictment, the term "Case" of cigarettes describes a case of Contraband\Counterfeit Cigarettes which generally contains fifty (50) cartons of cigarettes; the term "Carton" of cigarettes describes a carton which contains ten (10) packs; the term "Pack" of cigarettes describes a package which contains twenty (20) individual cigarettes. Therefore, one case typically contains approximately 10,000 individual cigarettes.

### **COUNT ONE**

#### **(Conspiracy to Transport Contraband Cigarettes)**

13. Beginning in or about May 2009, and continuing through in or about May 2011, in the District of New Jersey, Central District of California and elsewhere, defendants,

JIA YONGMING,  
YAZHOU WU and  
RICKY LE,

did knowingly and intentionally conspire and agree with each other, and others, to unlawfully and knowingly ship, transport, receive, possess, sell, distribute and purchase contraband cigarettes, as that term is defined in Title 18, United States Code, Section 2341(2), namely, in excess of 10,000 cigarettes, which bore no evidence of the payment of applicable state cigarette

taxes, contrary to Title 18, United States Code, Section 2342(a).

**OBJECT OF THE CONSPIRACY**

14 . It was the object of the conspiracy that the defendants would enrich themselves and other unindicted coconspirators financially by possessing and distributing millions of contraband cigarettes on which no state tax had been paid.

**MANNER AND MEANS**

15. It was a part of the conspiracy that between May 2009 and November 2010 contraband cigarettes were shipped by unindicted coconspirator H.C.L. from China to Port Newark, New Jersey and Port New York, NYC;

16. It was a further part of the conspiracy that the contraband cigarettes imported from China were stored in a warehouse in New Jersey until they were shipped overland to California for delivery to defendants JIA YONGMING, YAZHOU WU, RICKY LE, unindicted coconspirator J.H. and others.

17. It was a further part of the conspiracy that the contraband cigarettes were delivered to warehouse or storage facilities in California selected by the defendants and others.

18. It was a further part of the conspiracy that the conspirators paid a "handling fee" to undercover FBI agents to assure that the contraband cigarettes would be safely transported from New Jersey to California.

19. It was a further part of the conspiracy that, on each of the following five occasions, the defendants, and other unindicted coconspirators, accepted delivery of contraband cigarettes from undercover FBI agents:

<b>Date</b>	<b>Place</b>	<b>Defendant(s)</b>	<b>Contraband Cigarettes</b>
on or about August 28, 2009	El Monte, CA	<b>YAZHOU WU</b> <b>RICKY LE</b>	Approximately 374 cases; 3,740,000 Marlboro and Marlboro Lights cigarettes
on or about February 2, 2010	Industry City, CA	<b>JIA YONGMING</b> <b>YAZHOU WU</b> <b>RICKY LE</b>	1041 cases; 10,410,000 Marlboro and Marlboro Lights cigarettes
on or about August 4, 2010	El Monte, CA	<b>YAZHOU WU</b>	1,068 cases; 10,068,000 Marlboro and Marlboro Lights cigarettes
on or about November 16, 2010	Commerce, CA	<b>JIA YONGMING</b>	1066 cases 10,066,000 Marlboro and Marlboro Lights cigarettes
on or about February 17, 2011	Commerce, CA	<b>JIA YONGMING</b>	1070 cases 10,070,000 Marlboro and Marlboro Lights cigarettes

**Overt acts**

20. In furtherance of the conspiracy, and to effect the object thereof, the defendants and their coconspirators committed and cause to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

- a. On or about August 28, 2009, defendant YAZHOU WU paid an undercover FBI agent a \$25,000 "handling fee" for the delivery of contraband cigarettes;
- b. On or about February 2, 2010, defendant JIA YONGMING paid an undercover FBI agent a \$45,000 "handling fee" for the delivery of contraband cigarettes;
- c. On or about August 4, 2010, unindicted coconspirator J. H. paid an undercover FBI agent a \$55,000 "handling fee" for the delivery of contraband cigarettes;

d. On or about November 16, 2010, defendant JIA YONGMING paid an undercover FBI agent a \$55,000 "handling fee" for the delivery of contraband cigarettes;

e. On or about February 17, 2011 defendant JIA YONGMING paid an under cover FBI agent a \$48,000 "handling fee" for the delivery of contraband cigarettes.

All in violation of Title 18, United States Code, Section 371.

## COUNTS TWO through SIX

**(Trafficking in Goods Bearing Counterfeit Marks)**

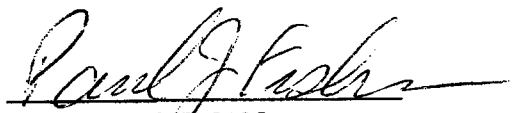
1. The allegations set forth in Paragraphs 1-12, 14-20 are hereby re-alleged and incorporated as if fully set forth herein.
2. On or about the dates alleged below, in the District of New Jersey, Central District of California, and elsewhere, the defendants set forth below did knowingly and intentionally traffic, attempt to traffic and aid and abet the trafficking in goods, namely, 4619 cases of cigarettes, and did knowingly use and aid and abet the use of counterfeit marks, as alleged below, on and in connection with such goods, which marks were identical with and substantially indistinguishable from genuine marks in use and duly registered for those goods on the principal register in the United States Patent and Trademark Office, and the use of which marks was likely to cause confusion, to cause mistake and to deceive:

<b>Count</b>	<b>Date(s)</b>	<b>Defendant(s)</b>	<b>Counterfeit Merchandise and Counterfeit Marks</b>
2	Between on or about May 15, 2009 through on or about August 28, 2009	<b>YAZHOU WU and RICKY LE</b>	Approximately 374 cases; 3,700,000 cigarettes Marlboro
3	Between on or about November 15, 2009 through on or about February 2, 2010	<b>JIA YONGMING YAZHOU WU RICKY LE</b>	1041 cases; 10,410,000 cigarettes Marlboro Marlboro Lights
4	Between on or about February 8, 2010 through on or about August 4, 2010	<b>YAZHOU WU</b>	1,068 cases; 10,068,000 cigarettes Marlboro Marlboro Lights

Count	Date(s)	Defendant(s)	Counterfeit Merchandise and Counterfeit Marks
5	Between on or about September 2, 2010 through on or about November 16, 2010	JIA YONGMING	1066 cases 10,066,000 cigarettes Marlboro
6	Between on or about October 20, 2010 through in or about February 17, 2011	JIA YONGMING	1070 cases 10,070,000 cigarettes Marlboro

In violation of Title 18, United States Code, Section 2320(a)(1) and 18, United States Code, Section 2.

A TRUE BILL

  
 PAUL J. FISHMAN  
 United States Attorney



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District of New Jersey**

**UNITED STATES OF AMERICA**

**v.**

**JIA YONGMING  
YAZHOU WU  
RICKYLE**

**INDICTMENT FOR**

**TITLE 18 USC Sections 371, 2320(a)(1)**

**PAUL J. FISHMAN**  
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